


City of San Diego  
**MEMORANDUM**

File: CC-002

**DATE:** April 27, 2006

**TO:** City Council President and Council Members

**FROM:** Jay M. Goldstone, Chief Financial Officer 

**SUBJECT:** Response to City Council Budget Questions through April 19, 2006

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This memorandum provides additional responses to questions raised at the Monday April 17, 2006 City Council meeting and the Wednesday April 19, 2006 joint Budget and Finance Committee and City Council meeting. While incorporated into this single memorandum, many of these responses were actually prepared by the departments most directly impacted by/associated with the particular question raised. At the end of this memorandum is a list of questions that are still being researched. Responses to these questions will be provided as quickly as possible.

**QUESTION:** What is the funding and structural detail of General Services?

**RESPONSE:** The General Services Department is comprised of eight divisions. The General Fund divisions are Administration, Facilities, Parking Management, Station 38, and Street Division. The Non-General Fund divisions are Airports, Publishing Services and Equipment Division.

Department Name	FTE	PE	NPE	Total Expenses	Revenue
Administration	2.00	\$ 279,674	\$ 17,103	\$ 296,777	N/A
Facilities	130.50	\$10,053,349	\$ 5,097,970	\$ 15,151,319	\$ 4,907,150
Parking Mgmt	101.00	\$ 7,518,001	\$ 2,205,991	\$ 9,723,992	\$ 25,683,216
Station 38	7.75	\$ 549,729	\$ 12,293	\$ 562,022	\$ 408,140
Street Division	317.49	\$23,835,162	\$26,836,031	\$ 50,671,193	\$ 36,508,109
Airports	19.50	\$ 1,385,088	\$ 1,758,817	\$ 3,143,905	\$ 4,101,195
Publishing Services (Print Shop)	35.00	\$ 1,952,474	\$ 2,407,702	\$ 4,360,176	\$ 4,749,298
Equipment -Operations	179.50	\$13,483,754	\$14,794,086	\$ 28,277,840	\$ 28,795,587
Equipment -Replacement	0.00	N/A	\$12,983,400	\$ 12,983,400	\$ 21,060,429

The fiscal year 2007 revenue projection for Publishing Services/ Print Shop is the same as fiscal year 2006 budgeted revenue since the department will undergo Business Process Re-engineering. As a result, departmental projections for fiscal year 2007 expenditures and revenues are subject to modification.

**QUESTION:** Why did the City Attorney's Department receive additional \$2 million for Fiscal Year 2007? What did the City Attorney's Department do with the \$2 million increase given in Fiscal Year 2006 for their Integrity Unit?

**RESPONSE: Fiscal Year 2006**

Each year changes are made to department budgets to ensure that appropriate amounts are budgeted for average salaries, fringe benefit costs, and the annualization of the negotiated salary schedule. For Fiscal Year 2006, adjustments were made to the City Attorney's Department to reflect the annualization of the Fiscal Year 2005 negotiated salary compensation schedule and the changes to the average salaries, retirement contributions, and retiree health contributions. These components of the City Attorney's budget for Fiscal Year 2006 amounted to \$3,112,778.

Overall, the City Attorney's budget increased \$2,088,818 in Fiscal Year 2006 due to: (1) an increase of \$3,112,778 for the salary and benefit adjustment summarized in the previous paragraph; (2) a reduction of \$446,080 for the transfer of staffing to the Family Justice Center; (3) a reduction of \$211,734 (1.00 Deputy City Attorney position) to enable the Ethics Commission to obtain independent legal counsel; (3) an increase of \$250,000 to support the Disclosures Practices Working Group; (4) an increase of \$97,468 for information technology and non-discretionary spending such as utilities and insurance; (5) a reduction of \$1,607,661 in Personnel Expenses to achieve a balanced Fiscal Year 2006 General Fund Budget; (6) an increase of \$135,411 for DNA testing reporting as required by Proposition 69; and (7) an increase of \$758,636, which the City Attorney proposed and the City Council approved, for a Plaintiff Litigation Program to focus on monetary recovery on behalf of the City of San Diego. The success of this program was detailed in an April 12, 2006 memorandum to the Mayor and City Council entitled Plaintiff's Litigation and Revenue Matter Recoveries by the Civil Division of the City Attorney's Office (attachment 1). In its first year of operation, the program will have paid for itself and provided net additional revenue to the City's General Fund as well as additional recoveries for the City's enterprise funds according to the Office of the City Attorney.

During the Fiscal Year 2006 Proposed Budget phase, the City Attorney's Office provided a proposed list of operational needs for his department that included \$243,091 for a Public Integrity Unit in the Criminal Division. This request was not granted to the department.

**Fiscal Year 2007**

The City Attorney's Fiscal Year 2007 Proposed Budget reflects an increase of \$2,109,333 over Fiscal Year 2006 Annual Budget. This increase is due to: (1) an increase of \$2,368,499 for the salary and benefit adjustments, (2) an increase of \$1,009,428 for 9.11 supplemental positions, (3) a reduction of \$1,257,519 for the vacancy savings factor adjustment, and (4) a reduction of \$11,075 in non-discretionary spending.

**QUESTION:** On page 58 of the Proposed Budget, the proposed CIP budget for Water is contingent on obtaining private financing and rate increases. What will be cut if private financing/rate increases are not approved?



**RESPONSE:** The projects listed on the page 58 that would go forward without private financing/rate increases would be:

- \$1.7 million Alvarado Water Treatment Plant Expansion
- \$23.2 million Miramar Water Treatment Plant
- \$600,000 of the \$1.0 million for Seismic Upgrades
- \$1.2 million of the combined \$2.0 million for Annual Allocation/CIP Contingencies (These projects are listed on page 74.)
- \$468,000 for Torrey Pines Road/La Jolla Blvd Water Main Replacement (This project is listed on page 73.)

**QUESTION:** Where did the funding for the Office of Ethics and Integrity come from?

**RESPONSE:** The Office of Ethics and Integrity (OEI) Fiscal Year 2007 Proposed Budget includes 7.00 positions for a personnel expense (PE) of \$791,380 and non-personnel expense (NPE) of \$379,492 for a total combined budget of \$1,170,872.

The Office was formed by consolidating positions and programs that were budgeted separately in FY 2006. These are:

The Human Relations Commission ("HRC") – In FY 2006, this was a program budgeted in the General Fund under Citywide Program Expenditures (Dept. 601). It included 2.00 Positions.

- 1.00 Executive Director
- 1.00 Executive Secretary

The Citizen's Review Board of Police Practices ("CRBPP") – In Fiscal Year 2006, this was a program budgeted in the General Fund under Citywide Program Expenditures (Dept. 601). It included 2.00 positions.

- 1.00 Executive Director
- 1.00 Executive Secretary

The Diversity Program – In FY 2006, the Diversity Program (Dept. 5067) was budgeted as a Special Revenue Fund. It included 4.0 positions, 3 of which transferred to OEI (per below):

- 1.00 Organizational Effectiveness Specialist III
- 1.00 Organizational Effectiveness Specialist II
- 1.00 Administrative Aide I

Note: 1.00 Associate Management Analyst position transferred to the Business Office

The amount of \$13,000 for the Ethics Hotline and one position was transferred from the Office of the Auditor and Comptroller to become the Ethics Audit and

Compliance Specialist.  
1.00 Accountant III

**QUESTION:** What is the budget structure for the Office of Ethics and Integrity?

**RESPONSE:** In the Fiscal Year 2007 Proposed Budget, the above positions and programs will be transferred into the respective activities under the one Office of Ethics and Integrity (Department 300):

Activity 1000 – City Policy Process Review  
Activity 1001 – Ethics Audit  
Activity 2000 – Diversity  
Activity 3000 – Human Relations Commission  
Activity 4000 – Citizen’s Review Board of Police Practices

Some new elements and enhancements were added to the above activities from what was budgeted in Fiscal Year 2006. These are:

- 1) An Assistant Deputy Chief position was added to support the City Policy Process Review and Diversity activities. This position is being funded by the salary savings of two classified positions that transferred with the Diversity budget (an Administrative Aide I and an Organizational Effectiveness Specialist II).
- 2) Funding of \$75,000 for Ethics & Diversity training programs was newly added.
- 3) A part-time intern was added to Human Relations Commission activity for a cost of \$15,000.

Non-personnel accounts for office supplies and equipment received minor enhancements. Non-discretionary costs such as IT, phones, electricity, and security services were increased according to the new Fiscal Year 2007 rates.

Note: The positions of Deputy Chief of Ethics and Integrity and the Executive Secretary are budgeted in the Office of Chief Operating Officer (Department 040) as part of Executive Management. These have been converted from positions that previously existed elsewhere in the city in fiscal year 2006:

1.00 Assistant Executive Services Director (from Mayor, Department 10)  
1.00 Deputy Chief of OEI

1.00 Executive Secretary (supplemental position from Special Projects, Department 80, reimbursed by Ballpark Fund)  
1.00 Executive Secretary of OIE, will be funded via General Fund in Fiscal Year 2007.



In prior years, the Diversity Program charged departments a fee for training services provided. However, revenues generated have not been sufficient to cover the full cost of this program and General Fund money has been required to support it.

In Fiscal Year 2007 the Office of Ethics and Integrity and all of its activities, including the Diversity Program, will be part of the General Fund. The Office of Ethics and Integrity will become part of the General Government Services Billing ("GGSB") that the Auditor's Office applies to all departments to cover the costs of activities that support the City as a whole.

**QUESTION:** Why is the Office of Ethics and Integrity in the Mayor's Office?

**RESPONSE:** The Office of Ethics and Integrity ("OEI") is charged with providing programs and training for all employees who work for the City. This includes ethics training which provides information to employees concerning relevant ethics related state/local law/regulations/policies and procedures, such as the Code of Ethics (PDF), Conflict of Interest and Employee Conduct (PDF). This training is designed to improve each employee's understanding of ethics with the purpose of strengthening his/her ethical decision-making skills.

OEI also maintains the Employee Ethics Hotline where any employee may confidentially report unethical behavior, in addition to waste, fraud, and abuse 24 hours a day. OEI reviews, refers (including to the Ethics Commission where appropriate), and monitors each complaint until its resolution/disposition. It is responsible for developing ethics educational/informational resources, such as a comprehensive Employee Code of Conduct Handbook, for all City employees.

**QUESTION:** Are we increasing affordable housing in Development Services?

**RESPONSE:** In August of 2003, the City Council approved the Affordable/In-fill Housing and the Sustainable Buildings Expedite Program, which is designed to process affordable housing and sustainable building projects twice as fast as the current system allows. Since its inception, 96 projects have elected to enter into the Expedite Program. The Expedite Program is or has processed over 1,200 affordable housing units, and 500 sustainable housing units. The Affordable/In-Fill Housing and Sustainable Buildings Expedite Program is currently meeting the performance measure of processing projects twice as fast as the standard permitting process. For discretionary land development projects, project timelines in the Expedite Program indicate City staff is accomplishing their portion of the permit process within 48 working days.

Development Services will allocate resources and staff, as necessary, to continue to meet the established expedite turn-around times for this program.

**QUESTION:** Submit detail of long term obligations PETCO and long term view of obligations.

**RESPONSE:** The \$1,851,000 net increase within the PETCO Park budget for the Fiscal Year 2007 Proposed Budget is attributable to four (4) factors:

1. **\$610,000 in Police Patrol and Traffic control costs:** This will be the first year that the actual estimated Police Patrol and Traffic control cost for events at PETCO Park is budgeted within the PETCO Park budget. In the first two years of operation, the City Manager chose to reflect a reduced estimate for these costs and anticipated that actual costs over the budget estimate would be paid from the end of year fund balance.

The Fiscal Year 2007 Proposed Budget includes an actual estimated cost for all Police Patrol and Traffic control services related to events held at PETCO Park. This estimate is based upon police patrol and traffic costs during the first two years of operation of the facility. Currently, the Mayor's staff, the Deputy Chief of Land Use and Economic Development, the Ballpark Administrator and a Deputy City Attorney will be analyzing the Joint Use and Management Agreement to ascertain the feasibility of having the Padres reimburse the City for more PETCO Park event public safety costs.

2. **In fiscal year 2006, the Padres paid the City a \$935,000 Transient Occupancy Tax (TOT) Guaranty offset against the City's share of Joint Ballpark Ownership Expenses (JBOE). In fiscal year 2007, no such payment is anticipated from the Padres:**

The City of San Diego, Padres and John Moores entered into a TOT Guaranty Agreement (City Clerk Document No. RR-295763-1). Section 5 of this agreement states that the City shall receive a credit/offset against the City share of JBOE if the actual TOT collected by the City for the ballpark hotels is less than the projected TOT (as contained in the Adjusted Exhibit M to the Joint Use and Management Agreement (JUMA).

The Padres made the payment as a result of the Hotel Solamar being completed on April 7, 2005. This later completion date required the Padres to "offset" a projected Ballpark Hotels TOT amount that was anticipated for receipt at the end of fiscal year 2005. As a result, the Padres paid the City \$935,788 in fiscal year 2006.

Since all the Ballpark Hotels are now completed, the City is not expected to receive any TOT "offset" in the remaining years of the TOT Agreement.

3. **\$174,000 Staff Costs associated with refunding of current Ballpark Bonds:** During fiscal year 2007, expenses associated with a potential refunding of current



Ballpark Bonds will pay for Financing Services Department, City Auditor, City Treasurer, City Attorney and Outside Bond Counsel staff.

4. **\$132,000 Annual Consumer Price Index (CPI) adjustment for City Share of Operational costs:** Section 8.2.2 of the Joint Use and Management Agreement outlines that the City shall pay to the Padres the amount (City Share of Joint Ballpark Expenses) equal to the lesser of:

- a. Seventy percent (70%) of the Joint Ballpark Ownership Expenses for each fiscal year or
- b. The City's Joint Expense Cap for each fiscal year (\$3,500,000).

Beginning in the Padres fiscal year 2005, the City is required to pay the consumer price index adjustment of the City's Joint Expense Cap (if any). Based upon historical data, 3.7% is budgeted for this CPI adjustment.

For Fiscal Years 2008 and 2009:

JUMA payments are for: \$500,000 per year for RENT (less any rent credit remaining from the Padres for an ADA facility improvements at Qualcomm.)

The Joint Ballpark Ownership Expenses are projected to increase approximately 3% each year above the Fiscal Year 2007 Proposed Budget line item amount of \$3.7 million.

The City is negotiating with the Padres to increase the Padres portion of payments for Police and traffic control services in 2008 and 2009, therefore, projected costs are not available.

The current Debt Service payment schedule is \$15 million each year for the remaining term of the bonds. Assuming a public offering with bond insurance, estimates of annual savings have ranged from approximately \$3.0 million to \$4.0 million, depending on interest rates that have existed at the time such estimates were generated; this translates into estimated annual financing payments of approximately \$11.0 million to \$12.0 million.

**QUESTION:** When will Centre City Development Corporation, SEDC, and Housing Commission budgets come forward?

**RESPONSE:** Center City Development Corporation (CCDC) Fiscal Year 2007 Proposed Budget of \$176.4 Million was presented to the Centre City Advisory Committee on April 29, 2006, the CCDC Board on April 26, 2006 and will be presented to the Redevelopment Agency on May 23, 2006.

Southeastern Economic Development Corporation (SEDC) Fiscal Year 2007

Proposed Budget of \$25.9 Million will be presented to the Redevelopment Agency on May 23, 2006

San Diego Housing Commission (SDHC) Fiscal Year 2007 Proposed Budget of \$275.7 Million was presented to the SDHC Board on April 14, 2006 and will be presented to the Housing Authority on May 16, 2006

**QUESTION:** Please clarify where Auditor and Comptroller Department is in City structure via the City Charter?

**RESPONSE:** Under the new City Charter, which established the Strong Mayor form of government, the Auditor/Comptroller Department is under the responsibility of the Mayor. Mayor Sanders has combined all financial operations of the City under the Chief Financial Officer. These areas include the Auditor/Comptroller Department, City Treasurer's Department, Financial Management, and Corporate Sponsorships and Endowments.

**QUESTION:** What is the highest interest rate feasible for pension obligation bonds?

**RESPONSE:** There is not a definitive answer to this question. Staff would first do an analysis similar to any other refunding analysis. Typically in these cases, so long as there is at least a 3% present value savings after the refunding as compared to doing nothing, staff would proceed with the refunding. In this case, that analysis would compare the actuarially assumed rate of return on the investment (currently 8%), which is the rate the System charges the City on its unfunded liability as compared to the interest rate on the total bonds which include the cost of issuances, reserve funds, expected earnings on the reserve funds and net proceeds. In addition to this quantitative calculation, there would be a subjective analysis completed as to the expected rate of return the System could earn. A portion of this analysis would be based upon market forecasts as well as the System's historical performance. The historical performance would also be compared to actual market performance during the same period to gauge how well the System performs in relationship to market movements.

**QUESTION:** Can the Library Ordinance be revamped to include Park and Recreation?

**RESPONSE:** Since the Library Ordinance is law established by the City Council, the Council has the discretion to modify this Ordinance as it deems appropriate. While unnecessarily earmarking funding for specific purposes is not prudent fiscal management and possibly limits future Councils' decision-making authority, staff suggests that if the City Council wishes to consider any amendments to the Library Ordinance that it be calendared for discussion at a future Budget and Finance Committee meeting following the completion of the fiscal year 2007 budget hearings.



### **QUESTIONS YET TO HAVE RESPONSES**

Staff will forward responses to the following questions as the information is received.

1. Clarify the 500 worker cuts attributed to the Mayor in print article. Are they actually vacant positions? Clarify vacancy factor.
2. Is there funding for ALPHA's "Take Back the Street Program"?
3. Where is the city in regard to ADA and services to the disabled? Has the ADA coordinator been provided with an assistant?
4. How will the budget be monitored in fiscal year 2007? What assurances are there that controls will be in place?
5. Is funding for the Sewer department sufficient to meet State and federal mandates?

cc: Mayor Sanders  
Ronne Froman, Chief Operating Officer  
Mary Lewis, Financial Management Director  
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April 12, 2006

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

PLAINTIFF'S LITIGATION AND REVENUE MATTER RECOVERIES  
BY THE CIVIL DIVISION OF THE CITY ATTORNEY'S OFFICE

**INTRODUCTION**

The purpose of this report is to provide an update on the significant recoveries and ongoing plaintiff's litigation and revenue matters by the City Attorney's Office Civil Division during Fiscal Year 2006, from July 2005 through March 2006.

Plaintiff's litigation and revenue matters prosecuted by the City Attorney's Office Civil Division have resulted in judgments, settlements, or other recoveries for the City in the amount of \$4,242,530 from July 2005 through March 2006. This amount includes litigation settlements or judgments of approximately \$1,892,530, the recovery of a \$1,800,000 federal grant, and the recovery of \$550,000 in delinquent debts.

Further, there is approximately \$2,558,000 in immediately pending judgments, settlements, or other recoveries attributable to the City Attorney's Office. These additional recoveries should be finalized within 30-60 days.

**DISCUSSION**

Plaintiff's litigation by the City Attorney's Office from July 2005 through March 2006 has resulted in overall settlements or judgments of approximately \$1,892,530 of which \$663,468 goes directly to the General Fund. These matters include:

- settlement with a City contractor for \$750,000 in a breach of contract action involving a ruptured water main;
- summary judgment granted in the City's favor for \$326,000 plus attorney's fees of \$191,475 in a dispute with SDG&E over relocation of power lines in the Ball Park District; and
- settlements or judgments for approximately \$625,055 in various matters including recovery for unpaid rent, unpaid utility fees, and damage to City property.



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Actions instituted by the City Attorney's Office resulted in the reinstatement of a \$1,800,000 federal grant for Brown Field and will provide approximately \$1,130,000 in new revenue from the airport property. In August 2005, the FAA withdrew the federal grant for Brown Field due to City property management issues which included allowing City tenants to occupy areas affecting the safety of airport operations and allowing non aeronautic uses of the airport property. The City Attorney's Office undertook numerous eviction actions to remove tenants from those areas deemed unsafe by the FAA, and negotiated with the FAA to allow short term non aeronautic uses on other areas of the property. These actions resulted in the reinstatement of the federal grant in October of 2005.

The City Attorney's Office also undertook eviction actions at Brown Field against tenants for unpaid rent, holding over after expiration of leases, or persons on the property without lease agreements with the City. After these actions regained control of the property, and with the FAA's approval, the City Attorney's Office negotiated new right-of-entry permits with tenants that will provide new revenue to the City of approximately \$1,300,000 over twelve months. These permits are currently being executed by the tenants and should be finalized within approximately 30 days. It is anticipated that similar actions by the City Attorney's Office can be applied to other areas of airport property to further increase revenue.

In addition to the above matters, City Attorney plaintiff's litigation attorneys undertook a campaign with the City Treasurer's Office Collections Division to publicize, through the media and letters to debtors, the thousands of delinquent debts owed to the City. The Collections Division has determined that as a result of these joint efforts, from October 2005 to February 2006, the City has collected \$550,000 in delinquent debts. The City Attorney's Office works closely with the City Treasurer's Collections Division in prosecuting cases against delinquent debtors to recover money owed the City.

Potential million and multi-million dollar plaintiff's revenue and recovery matters currently being handled by the City Attorney's office include:

- four pension related matters for professional negligence;
- a contamination claim for a fuel plume under Qualcomm Stadium;
- an action against internet hotel booking companies for failure to pay Transient Occupancy Tax (TOT);
- two actions for breach of development agreements;
- construction contract claim for liquidated damages for delay;
- unfair business practices action relating to price fixing by natural gas wholesalers;
- an action against a heavy equipment supplier for excessive lease charges;
- action for soil contamination from an underground fuel tank affecting construction of a sewer pump station; and
- false claims action against a manufacturer of water works parts, purchased by the City, for misrepresenting that its products met certain industry standards.

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Plaintiff's matters being handled by the City Attorney's Office with potential six figure dollar recoveries (\$100,000 to less than \$1,000,000) include:

- four breach of contract actions for defective work, materials, or liquidated damages;
- bankruptcy matter to obtain conservation property and endowment funds from a bankrupt environmental entity;
- bankruptcy matter to recover fines from a car rental agency;
- two actions for back rent owed on City property;
- action for false claims involving procurement of City contracts;
- false claims action relating to collection of TOT;
- action for violation of the Telephone Consumer Protection Act;
- action against the County for failure to pay statutory fees for lab processing in criminal actions involving narcotics; and
- action to recover an administrative penalty.

Resolution of these cases varies from a few months to up to three years depending on the complexity of the litigation and the potential for settlement prior to trial. If desired by the Mayor and or Council, these pending litigation matters may be discussed in more detail in Closed Session.

The number of plaintiff's litigation and revenue matters with a potential recovery in excess of \$50,000 being handled by the City Attorney's Office has significantly increased between July 2005 and March 2006. In July 2005, there were approximately 16 matters in excess of \$50,000 being handled by the City Attorney's Office however, by the end of March 2006, this number has increased to 37 matters. Additional matters with a potential recovery in excess of \$50,000 are currently being evaluated for litigation.

As part of an ongoing effort to increase plaintiff's litigation on behalf of the City, City Attorney plaintiff's litigation attorneys have met with the City Auditor's Office External Audit Division to provide legal information on asserting False Claims Act actions based upon improprieties uncovered by the Auditor's Office during their audits of those paying rent or transient occupancy taxes (TOT) to the City. In a False Claims Act action, the City can recover treble damages and civil penalties. As a result, the Auditor's Office has recently referred for legal action a matter where their audit determined a hotel operator had significantly under paid TOT. The City Attorney's Office has also provided internal training of its attorneys in the area of False Claims, and as a result of this training, additional matters are currently being evaluated for litigation.

From July 2005 through March 2006, the City Attorney's Office has or is handling in excess of 40 revenue and recovery matters with potential recoveries below \$50,000. Although these matters individually have a potential recovery of \$50,000 or less, in the aggregate they can



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provide significant revenue for the City. Since July 2005, 22 such matters handled by the City Attorney's Office have resulted in settlements or judgments for the City of \$400,979.

The City Attorney's Office itself or in concert with outside counsel is also actively pursuing insurance and or indemnity claims to protect the City from significant financial exposure. Insurance has been identified that will likely cover the City's portion of the multi-million dollar expense for clean-up of San Diego Bay that allegedly resulted from contamination by a City refuse disposal site that ceased operation several decades ago. The City is also pursuing a cross-complaint for indemnity related to alleged claims the City's sewer rate fee structure was unlawful. The City is asserting that if it is found liable, others who received the benefit of the rate structure should reimburse the City.

In addition, the Federal District Court recently ruled that the City's insurance company was required to defend the City in all three of the De La Fuente cases (Border Business Park, National Enterprises, and Otay Acquisitions) and that the amount of coverage for the City's behalf on a particular policy was \$8 million, rather than \$2 million as the insurance company had claimed. The Federal Court also held that upon completion of the De La Fuente cases in state court, the City could seek contract damages and attorney's fees against the insurance company.

**CONCLUSION**

In summation, the City of San Diego has significantly benefited through plaintiff's litigation and revenue matters prosecuted by the City Attorney's Office Civil Division. From July 2005 through March 2006, \$4,242,530 in judgments, settlements, or other recoveries has been obtained on behalf of the City. In addition, approximately \$2,558,000 in immediately pending judgments, settlements, or other recoveries attributable to the City Attorney's Office are likely to be realized within 30-60 days.

The City Attorney's Office Civil Division is currently prosecuting 13 matters, each with a potential recovery in excess of \$1 million, at least four of which have a potential recovery in the tens of millions. There are 16 additional matters with a potential recovery in excess of \$100,000 each. The time frame for recovery on these matters varies greatly, from a few months up to three years, due to their varying complexity and litigation status.

During Fiscal Year 2006, the emphasis on plaintiff's litigation and recovery matters by the City Attorney's Office has resulted in an increase of more than 100% in the number of matters it is handling with a potential recovery in excess of \$50,000. Review of additional matters is ongoing and further plaintiff's litigation on behalf of the City will be initiated. The

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continuation and increase of this level of recovery for the benefit of the City of San Diego can only occur through the continuing budgetary support of the City Attorney's Office by the Mayor and Council.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Michael J. Aguirre". The signature is written in a cursive, flowing style.

MICHAEL J. AGUIRRE  
City Attorney

SVK:SvK  
RC-2006-13